

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

DANNY LEE FLECK

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Criminal No. AMD-04-0491
Civil No. JFM-10-3013

MEMORANDUM

Denny Lee Fleck has filed a motion under 28 U.S.C. §2255. The motion will be denied.

The criminal case from which this §2255 case arises was presided over by the Honorable Andre Davis. After a hearing had been held, Judge Davis denied in significant respects a motion to suppress that Fleck has filed. Thereafter, Fleck plead guilty to two charges, one for sexually exploiting a minor for the purpose of producing visual depictions of minors engaged in sexually explicit conduct, and the other for attempting to transport images of minors engaged in sexually explicit conduct. Thereafter, Judge Davis sentenced Fleck to 14 years in jail.

Fleck filed an appeal to the Fourth Circuit. Both in the brief he filed and in an *Anders* brief his appellate counsel filed, Fleck contended that his attorneys in the trial court had been ineffective, that his waiver of appellate rights was not knowing or intelligent, and that Judge Davis' calculations of his Sentencing Guidelines was incorrect. The Fourth Circuit affirmed the judgment of the District Court. A petition for certiorari filed by Fleck with the Supreme Court was denied.

In his present petition Fleck again argues that his counsel was ineffective, that his waivers were unknowing, and that the search and seizure of him by TSA was unconstitutional. Fleck has presented no evidence that his trial counsel was ineffective. Nor, assuming that they are cognizable, has he presented any evidence that the search in question was unlawful or that the waivers he made were involuntary. In that connection, Judge Davis conducted a full Rule 11 inquiry during which

Fleck acknowledged that the services of his attorney were satisfactory to him, that he understood the plea agreement, and was voluntarily entering into the agreement. He also admitted the facts upon which his guilty pleas were based.

A separate order denying Fleck's motion is being entered herewith.

Date: February 11, 2011

/s/
J. Frederick Motz
United States District Judge